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EXAMINER

PHAN, JOSEPH T

ART UNIT	PAPER NUMBER
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2645

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/787,741	Applicant(s) MESSMER, BRUNO	
	Examiner Joseph T. Phan	Art Unit 2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-23,26-30, 33-42, 44-47 rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg, Patent #6,075,844 in view of Culbreth et al., Patent #5,953,393.

Regarding claims 19, 28 and 36 Goldberg teaches a method of handling spoken messages, a message exchange, and computer-readable data carrier connected to a public switched telephone network including a plurality of subscribers comprising:

an address module configured to store a plurality of lists with subscriber identifications, each list being assigned to at least one of the subscribers (124 fig.1, col.5 lines 32-4, and col.9 lines 5-12)

a receiving module configured to receive a spoken message from one of the subscribers in the telephone network via the telephone network, the one of the subscribers being a transmitting subscriber, and to store the spoken message with an identification of the transmitting subscriber(Fig.1, col.4 lines 29-46, and col.5 lines 15-31);

a speech recognition module configured to enable the transmitting subscriber to designate by means of spoken language at least one of the other subscribers as an addressee to whom the spoken message is addressed (Fig.1,col.3 lines 55-65 and col.4 lines 20-28) and

configured to edit the plurality of lists by means of spoken language(*col.6 lines 30-34, col.7 lines 25-29, and col.9 lines 5-12; this new limitation is broad enough to read on resubmitting/editing the list with a new list(col.6 and col.7) or as col.9 discloses, spoken language was used to create/edit the soccer team list; the limitation does not recite who or when the list is edited*).

a transmission module configured to enable the transmitting subscriber to designate by means of spoken language at least one of the other subscribers as an addressee to whom the spoken message is addressed(Fig.1,col.3 lines 55-65 and col.4 lines 20-28);

a transmission module configured to transmit the stored message by means of an automatic call to the addressee(col.5 lines 32-40).

Goldberg does not expressly disclose inquiring if a reply is to be sent from the addressee to the transmitting subscriber and a reply module configured to receive and to store the reply from the addressee but does disclose prompting the recipient the capability of the system to receive a reply(col.4 lines 51-54 and col.7 lines 1-28).

Culbreth discloses inquiring if a reply is to be sent from the addressee to the transmitting subscriber and a reply module configured to receive and to store the reply from the addressee (130 Fig.1, 230 Fig.2, and col.4 line 35-col.5 line 49).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Goldberg to include Culbreth's means and method of receiving and storing a reply from the addressee as taught(col.4 line 35-col.5 line 49).

One of ordinary skill in the art would have been motivated to do this as Goldberg already establishes a system that is capable of sending a message and insinuates discussing a matter further(col.4 lines 51-54) and Culbreth merely furthers this insinuation as a reply from the

recipient(Fig.1 and col.4 line 35-col.5 line 49) and therefore easily motivated to modify Goldberg's prompting system.

Regarding claim 20, Goldberg in view of Culbreth teaches the message exchange according to claim 19, wherein the speech recognition module is further configured to enable the transmitting subscriber to create and administer the at least one of the lists by means of spoken language (col.3 lines 55-65).

Regarding claim 21, Goldberg in view of Culbreth teaches the message exchange according to claim 19, wherein each subscriber identification includes a name of the one of the subscribers(col.4 lines 20-28).

Regarding claim 22, Goldberg in view of Culbreth teaches the message exchange according to claim wherein each subscriber identification includes a call number of the one of the subscribers(col.4 lines 29-46).

Regarding claim 23 Goldberg in view of Culbreth teaches the message exchange according to claim wherein at least one of the subscriber identifications are stored as a voice signal(col.4 lines 20-28).

Regarding claim 26, Goldberg in view of Culbreth teaches the message exchange according to claim 19 wherein the reply module is configured to receive a reply from the addressee, and to store and transmit the reply to at least the transmitting subscriber(col.7 lines 1-29).

Regarding claim 27, Goldberg in view of Culbreth teaches the message exchange according to claim 19, wherein at least one of the lists contains access rights(120 Fig.1).

Regarding claim 29, Goldberg in view of Culbreth teaches the method according to claim 28, wherein at least one of the subscriber identifications are stored as a voice signal(col.4 lines 20-28).

Regarding claim 30, Goldberg in view of Culbreth teaches the method according to Claim 28 further comprising: storing status information concerning the transmission of the spoken message to the addressee: and retransmitting the spoken message if it is not successfully transmitted during a first attempt(col.7-col.8 all).

Regarding claim 33 Goldberg in view of Culbreth teaches the method according to claim 28 further comprising transmitting the spoken message via the Internet(col.9 lines 13-28).

Regarding claim 34, Goldberg in view of Culbreth teaches the method according to claim 28 further comprising: receiving the reply from the addressee; storing the reply in the message exchange and transmitting the reply to at least the transmitting subscriber(col.7 lines 1-65).

Regarding claim 35, Goldberg in view of Culbreth teaches the method according to claim 28, wherein the transmitting subscriber administers at least one of the lists by means of spoken language(col.3 lines 55-65).

Regarding claim 37, Goldberg in view of Culbreth teaches the message exchange of claim 19, wherein the addressee is a group of the subscribers associated with the common group identification(col.9 lines 5-12)

Regarding claim 38, Goldberg in view of Culbreth teaches the method of claim 19, wherein the receiving module is further configured to determine an address of the addressee based on identification of the transmitting subscriber and on one of the plurality of lists corresponding to the transmitting subscriber(col.9 lines 5-12).

Regarding claim 39, Goldberg in view of Culbreth teaches the computer-readable data carrier of claim 28, further comprising: determining an identification of the transmitting subscriber(col.9 lines 5-12).

Regarding claim 40, Goldberg in view of Culbreth teaches the method of claim 28, wherein the identifying further includes determining an address of the addressee based on the identification of the transmitting subscriber and on one of the plurality of lists corresponding to the transmitting subscriber(col.7 lines 1-65 and col.9 lines 5-12).

Regarding claim 41, Goldberg in view of Culbreth teaches the computer-readable data carrier of claim 36, wherein when said computer program is executed, the message exchange further performs: determining an identification of the transmitting subscriber(col.7 lines 1-65 and col.9 lines 5-12).

Regarding claim 42, Goldberg in view of Culbreth teaches the computer-readable data carrier of claim 36, wherein when said computer program is executed, the message exchange further performs: determining one of the plurality of lists that corresponds to the transmitting subscriber based on the identification of the transmitting subscriber(col.7 lines 1-65 and col.9 lines 5-12).

Regarding claim 44 Goldberg in view of Culbreth teaches the method according to claim 19, wherein the address module is further configured to be accessed via the internet to edit the plurality of lists (col.9 lines 13-28).

Regarding claims 45-47 Goldberg in view of Culbreth teaches a method of handling spoken messages according to claims 28 and 36, wherein the reply module to receive the reply from the

addressee is sent by means of spoken guidance(col.7 lines 1-65 and col.9 lines 5-12).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-25, 31-32, and 43 rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg, Patent #6,075,844 in view of Culbreth et al., Patent #5,953,393, further in view of Pflaumer, H. Pub.No. WO 9638969A.

Regarding claims 24-25, 31-32, and 43 Goldberg in view of Culbreth teaches the message exchange and method according to claims 19, 28, and 36.

Goldberg in view of Culbreth does not expressly disclose at least one tariff table wherein monitoring the table to send messages at low tariff and traffic loads based on the stored statistical tariff information.

Pflaumer discloses tariff information and sending messages at low tariff and traffic loads based on the statistical tariff information(see “advantage” section).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Goldberg’s system to send the spoken messages at low tariff traffic times.

One of ordinary skill in the art would have been motivated to do this as Goldberg discloses that the sending party can designate the method and format of the message transmission(col.7 lines 50-67) and sending the spoken message at low tariff times would be

economical to the sending party.

Response to Arguments

3. Applicant's arguments with respect to claims 19-39 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that the new limitation of "configured to edit the plurality of lists by means of spoken language" is broad enough to read on resubmitting/editing the list with a new list(col.6 lines 30-34 and col.7 lines 25-29) or as col.9 discloses, spoken language was used to create/edit the soccer team list; the limitation does not recite who or when the list is edited.

It is further noted that the claims can now be interpreted broader because of the removal of the limitation of "wherein at least two of the lists include a common group identification", such that the claim can now read on the initial addressee as now being the transmitting subscriber and the initial transmitting subscriber as now being the addressee since the reply/response is to one addressee.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T. Phan whose telephone number is (571) 272-7544. The examiner can normally be reached on Mon-Fri 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTP

November 25, 2005



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